

## TEXAS TRANSPORTATION COMMISSION

ALL Counties

## MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§1.84 and 1.88, and the repeal of §1.90, relating to Advisory Committees to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A, B, and C are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §§1.84 and 1.88, and the repeal of §1.90 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

DocuSigned by:

Brandye Hendrickson

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Deputy Executive Director

Recommended by:

DocuSigned by:

M. D. Willis

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Executive Director

116077 August 31, 2021

Minute  
NumberDate  
Passed

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Proposed Preamble

The Texas Department of Transportation (department) proposes amendments to §1.84, Statutory Advisory Committees, and §1.88, Duration of Advisory Committees, and the repeal of §1.90, Advisory Committees for Ports-to-Plains Corridor.

EXPLANATION OF PROPOSED AMENDMENTS AND REPEAL

Senate Bill No. 1474, Acts of the 87th Legislature, Regular Session, 2021, (SB 1474) adds Transportation Code, §201.623, under which it established the I-27 Advisory Committee to provide the department with information on concerns and interests along the Ports-to-Plains Corridor and advise the department on transportation improvements impacting the Ports-to-Plains Corridor. SB 1474 establishes the composition and purpose of the advisory committee and provides requirements for its meetings. Subsection (j) of that section authorizes the Texas Transportation Commission (commission) to adopt rules to govern the operations of the committee.

Senate Bill No. 763, Acts of the 87th Legislature, Regular Session, 2021, (SB 763) adds Transportation Code, §21.004, which requires the commission to appoint an advisory committee to assess current state law and any potential changes to state law that are needed to facilitate the development of urban air mobility operations and infrastructure in this state.

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1 Additionally, the department's rules provide, in accordance with  
2 Government Code, §2110.008, that each of the commission's or  
3 department's advisory committees created by statute or by the  
4 commission or department is abolished on December 31, 2021. The  
5 commission has reviewed the need to continue the existence of  
6 those advisory committees beyond that date. The commission  
7 recognizes that the continuation of some existing advisory  
8 committees is necessary for improved communication between the  
9 department and the public and this rulemaking extends the  
10 duration of specified advisory committees for that purpose.

11  
12 Amendments to §1.84, Statutory Advisory Committees, add  
13 subsection (e), which provides information unique to the I-27  
14 Advisory Committee relating to the purpose, membership, duties,  
15 meetings, and compensation of that committee, and subsection  
16 (f), which provides information unique to the Urban Air Mobility  
17 Advisory Committee relating to the purpose, membership, duties,  
18 and meetings of that committee. The amendments also correct the  
19 citation in subsection (d)(5) to remove the reference to  
20 §1.82(i), which was repealed in 2019.

21  
22 Amendments to §1.88, Duration of Advisory Committees, extend the  
23 dates on which the various advisory committees will be abolished  
24 and provide the date on which the new Urban Air Mobility  
25 Advisory Committee will be abolished. The amendments also  
26 remove the Border Trade Advisory Committee from the list of  
27 advisory committees that will be abolished on December 31, 2021.

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1 The statutes that created the Border Trade Advisory Committee  
2 and the new I-27 Advisory Committee provide that Chapter 2110,  
3 Government Code, does not apply to those advisory committees.  
4 Therefore, the commission does not have authority to determine  
5 the duration of those statutorily created advisory committees.

6  
7 Section 1.90, Advisory Committees for Ports-to-Plains Corridor,  
8 is being repealed because its provisions have been executed.

9 The legislature, by House Bill No. 1079, Acts of the 86th  
10 Legislature, Regular Session, 2019, (HB 1079), required the  
11 department to establish the Ports-to-Plains Advisory Committee  
12 to assist the department in conducting a comprehensive study of  
13 the Ports-to-Plains Corridor in accordance with that Act. That  
14 Act expires August 31, 2021. The committee has completed its  
15 work.

16  
17 FISCAL NOTE

18 Stephen Stewart, Chief Financial Officer, has determined, in  
19 accordance with Government Code, §2001.024(a)(4), that as a  
20 result of enforcing or administering the rules for each of the  
21 first five years in which the proposed rules are in effect,  
22 there will be no fiscal implications for other state agencies or  
23 local governments as a result of enforcing or administering the  
24 amendments and an indeterminate, negligible fiscal implication  
25 for the department because it is anticipated that the  
26 amendments can be accommodated within the agency's existing  
27 resources.

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2 LOCAL EMPLOYMENT IMPACT STATEMENT

3 Brandye Hendrickson, Deputy Executive Director, has determined  
4 that there will be no significant impact on local economies or  
5 overall employment as a result of enforcing or administering the  
6 proposed rules and therefore, a local employment impact  
7 statement is not required under Government Code, §2001.022.

8

9 PUBLIC BENEFIT

10 Ms. Hendrickson has also determined, as required by Government  
11 Code, §2001.024(a)(5), that for each year of the first five  
12 years in which the proposed rules are in effect, the public  
13 benefit anticipated as a result of enforcing or administering  
14 the rules will be improved accuracy of the rules and improved  
15 communication between the department and the public.

16

17 COSTS ON REGULATED PERSONS

18 Ms. Hendrickson has also determined, as required by Government  
19 Code, §2001.024(a)(5), that for each year of that period there  
20 are no anticipated economic costs for persons, including a state  
21 agency, special district, or local government, required to  
22 comply with the proposed rules and therefore, Government Code,  
23 §2001.0045, does not apply to this rulemaking.

24

25 ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

26 There will be no adverse economic effect on small business,  
27 micro-business, or rural communities, as defined by Government

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Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Hendrickson has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. She expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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Ms. Hendrickson has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the amendments to §§1.84 and 1.88 and the repeal of §1.90 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Advisory Committees." The deadline for receipt of comments is 5:00 p.m. on October 18, 2021. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments and repeal, or is an employee of the department.

STATUTORY AUTHORITY

The amendments and repeal are proposed under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.117, which provides the commission with the authority to establish, as it considers necessary, advisory committees on any of the matters under its jurisdiction, Transportation Code, §201.623(j), which provides the commission with the authority to adopt rules to govern the operations of the I-27 Advisory Committee, and Government Code, §2110.008, which provides that a

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1 state agency by rule may designate the date on which an advisory  
2 committee will automatically be abolished.

3

4 CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING  
5 Government Code, Chapter 2110, and Transportation Code,  
6 §§21.004, 201.114, 201.117, and 201.623.



## SUBCHAPTER F. ADVISORY COMMITTEES

## §1.84. Statutory Advisory Committees.

## (a) Aviation Advisory Committee.

(1) Purpose. Created pursuant to Transportation Code, §21.003, the Aviation Advisory Committee provides a direct link for general aviation users' input into the Texas Airport System. The committee provides a forum for exchange of information concerning the users' view of the needs and requirements for the economic development of the aviation system. The members of the committee are an avenue for interested parties to utilize to voice their concerns and have that data conveyed for action for system improvement. Additionally, committee members are representatives of the department and its Aviation Division, able to furnish data on resources available to the Texas aviation users.

(2) Membership. The commission will appoint nine members to staggered terms of three years with three members' terms expiring August 31 of each year. A majority of the members of the committee must have five years of successful experience as an aircraft pilot, an aircraft facilities manager, or a fixed-base operator. A member may not serve more than three consecutive terms on the committee.

## (3) Duties. The committee shall:

(A) periodically review the adopted capital improvement program;

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(B) advise the commission on the preparation and adoption of an aviation facilities development program;

(C) advise the commission on the establishment and maintenance of a method for determining priorities among locations and projects to receive state financial assistance for aviation facility development;

(D) advise the commission on the preparation and update of a multi-year aviation facilities capital improvement program; and

(E) perform other duties as determined by order of the commission.

(4) Meetings. The committee shall meet once a calendar year and such other times as requested by the Aviation Division Director.

(5) Rulemaking. Section 1.83 of this subchapter (relating to Rulemaking) does not apply to the Aviation Advisory Committee.

(b) Public Transportation Advisory Committee.

(1) Purpose. Created pursuant to Transportation Code, §455.004, the Public Transportation Advisory Committee provides a forum for the exchange of information between the department, the commission, and committee members representing the transit industry and the general public. Advice and recommendations expressed by the committee provide the department and the commission with a broader perspective regarding public

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1 transportation matters that will be considered in formulating  
2 department policies.

3 (2) Membership. Members of the Public Transportation  
4 Advisory Committee shall be appointed and shall serve pursuant  
5 to Transportation Code, §455.004.

6 (3) Duties. The committee shall:

7 (A) advise the commission on the needs and  
8 problems of the state's public transportation providers,  
9 including recommending methods for allocating state public  
10 transportation funds if the allocation methodology is not  
11 specified by statute;

12 (B) comment on proposed rules or rule changes  
13 involving public transportation matters during their development  
14 and prior to final adoption unless an emergency requires  
15 immediate action by the commission;

16 (C) advise the commission on the implementation  
17 of Transportation Code, Chapter 461; and

18 (D) perform other duties as determined by order  
19 of the commission.

20 (4) Meetings. The committee shall meet as requested  
21 by the commission or the division designated under §1.82(f) of  
22 this subchapter (relating to Statutory Advisory Committee  
23 Operations and Procedures).

24 (5) Public transportation technical committees.

25 (A) The Public Transportation Advisory Committee  
26 may appoint one or more technical committees to advise it on

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specific issues, such as vehicle specifications, funding allocation methodologies, training and technical assistance programs, and level of service planning.

(B) A technical committee shall report any findings and recommendations to the Public Transportation Advisory Committee.

(c) Port Authority Advisory Committee.

(1) Purpose. Created pursuant to Transportation Code, §55.006, the purpose of the Port Authority Advisory Committee is to provide a forum for the exchange of information between the commission, the department, and committee members representing the maritime port industry in Texas and others who have an interest in maritime ports. The committee's advice and recommendations will provide the commission and the department with a broad perspective regarding maritime ports and transportation-related matters to be considered in formulating department policies concerning the Texas maritime port system.

(2) Membership. Members shall be appointed pursuant to Transportation Code, §55.006. Members appointed by the commission serve staggered three-year terms unless removed sooner at the discretion of the commission.

(3) Duties. The committee shall:

(A) prepare a maritime port mission plan, in accordance with Transportation Code, §55.008 and submit the plan to the governor, lieutenant governor, speaker of the house of

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1 representatives and commission not later than December 1 of each  
2 even-numbered year;

3 (B) review each project eligible to be funded  
4 under Transportation Code, Chapter 55, and make recommendations  
5 for approval or disapproval to the department; and

6 (C) advise the commission and the department on  
7 matters relating to port authorities.

8 (4) Meeting. The committee shall meet at least  
9 semiannually and such other times as requested by the  
10 commission, the executive director, or the executive director's  
11 designee. The chair may request the department to call a  
12 meeting.

13 (d) Border Trade Advisory Committee.

14 (1) Purpose. Created pursuant to Transportation Code,  
15 §201.114, the Border Trade Advisory Committee provides a forum  
16 for the exchange of communications among the commission, the  
17 department, the governor, and committee members representing  
18 border trade interests. The committee's advice and  
19 recommendations will provide the governor, the commission, and  
20 the department with a broad perspective regarding the effect of  
21 transportation choices on border trade in general and on  
22 particular communities. The members of the committee also  
23 provide an avenue for interested parties to express opinions  
24 with regard to border trade issues.

25 (2) Membership. The border commerce coordinator  
26 designated under Government Code, §772.010, shall serve as the

NOTE: Additions underlined  
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Exhibit B

1 chair of the committee. The commission will appoint the other  
2 members of the committee in accordance with Transportation Code,  
3 §201.114. The commission will appoint members to staggered  
4 three-year terms expiring on August 31 of each year, except that  
5 the commission may establish terms of less than three years for  
6 some members in order to stagger terms.

7 (3) Duties. The committee shall:

8 (A) define and develop a strategy for identifying  
9 and addressing the highest priority border trade transportation  
10 challenges;

11 (B) make recommendations to the commission  
12 regarding ways in which to address the highest priority border  
13 trade transportation challenges;

14 (C) advise the commission on methods for  
15 determining priorities among competing projects affecting border  
16 trade; and

17 (D) perform other duties as determined by the  
18 commission, the executive director, or the executive director's  
19 designee.

20 (4) Meetings. The committee shall meet at least once  
21 a calendar year. The dates and times of meetings shall be set  
22 by the committee. The committee shall also meet at the request  
23 of the department.

24 (5) Rulemaking. Sections 1.82(i) and 1.83 of this  
25 subchapter do not apply to the Border Trade Advisory Committee.

26 (e) I-27 Advisory Committee.

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1           (1) Purpose. Created pursuant to Transportation Code,  
2           §201.623, the purpose of the I-27 Advisory Committee, as stated  
3           in subsection (b) of that section, is to provide the department  
4           with information on concerns and interests along the Ports-to-  
5           Plains Corridor, which is specified in Transportation Code,  
6           §225.069, and advise the department on transportation  
7           improvements impacting the Ports-to-Plains Corridor.

8           (2) Membership. Composition of the committee is  
9           provided by Transportation Code, §201.623(c) and (d). A member  
10           serves in accordance with §201.623(e). The chair and vice-chair  
11           of the committee are elected in accordance with §201.623(g).

12           (3) Duty. The duty of committee is to provide to the  
13           department the information and advice on the Ports-to-Plains  
14           Corridor for which it was formed.

15           (4) Meeting. In accordance with Transportation Code,  
16           §201.623(h), the committee shall meet at least twice each state  
17           fiscal year and at other times, as requested by the department  
18           or the chair.

19           (5) Compensation. In accordance with Transportation  
20           Code, §201.623(i), an advisory committee member is not entitled  
21           to receive compensation for service on the committee or  
22           reimbursement for expenses incurred in the performance of  
23           official duties as a member of the committee.

24           (f) Urban Air Mobility Advisory Committee.

25           (1) Purpose. Created pursuant to Transportation Code,  
26           §21.004, the purpose of the Urban Air Mobility Advisory

NOTE: Additions underlined

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Exhibit B

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1 Committee, as stated in subsection (a) of that section, is to  
2 assess current state law and any potential changes to state law  
3 that are needed to facilitate the development of urban air  
4 mobility operations and infrastructure in this state.

5 (2) Membership. The committee is composed of members  
6 appointed by the commission in accordance with Transportation  
7 Code, §21.004(b).

8 (3) Duty. Not later than September 1, 2022, the  
9 committee shall report to the commission and to the members of  
10 the legislature the committee's findings and recommendations on  
11 any changes to state law that are needed to facilitate the  
12 development of urban air mobility operations and infrastructure.

13 (4) Meeting. The committee shall hold public hearings  
14 and receive comments in accordance with Transportation Code,  
15 §21.004(c).

16  
17 §1.88. Duration of Advisory Committees.

18 (a) Except as provided by this section, each statutory  
19 advisory committee or department advisory committee is abolished  
20 on December 31, 2021 [~~2019~~].

21 (b) The following advisory committees are abolished on  
22 December 31, 2023 [~~2021~~]:

23 (1) a statutory or department advisory committee  
24 created after December 31, 2021 [~~2019~~];

25 (2) the Aviation Advisory Committee;

26 (3) the Public Transportation Advisory Committee;

NOTE: Additions underlined

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Exhibit B



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- 1 (4) the Port Authority Advisory Committee;  
2 (5) ~~[the Border Trade Advisory Committee;]~~  
3 ~~[-6-]~~ the Bicycle and Pedestrian Advisory Committee;  
4 (6) ~~[-7-]~~ the Freight Advisory Committee; and  
5 (7) ~~[-8-]~~ the Commission for High-Speed Rail in the  
6 Dallas/Fort Worth Region.

7 (c) A corridor segment advisory committee created under  
8 §1.87 of this subchapter (relating to Corridor Segment Advisory  
9 Committees) after December 31, 2021 ~~[2019]~~ is abolished on the  
10 date provided in the minute order creating the committee or if a  
11 date is not provided in the order, on the earlier of:

12 (1) the date of the completion of the segment for  
13 which the committee was created; or

14 (2) December 31, 2023 ~~[2021]~~.

15 (d) This section does not apply to the Border Trade  
16 Advisory Committee or the I-27 Advisory Committee. ~~[The I-69~~  
17 ~~Corridor Advisory Committee is abolished on December 31, 2020.]~~

18 (e) The Urban Air Mobility Advisory Committee is abolished  
19 on January 1, 2023, as provided by Transportation Code,  
20 §21.004(e). ~~[Each segment committee established by the~~  
21 ~~department in accordance with H.B. No. 1079, 86th Legislature,~~  
22 ~~Regular Session, 2019 is abolished on October 31, 2020. The~~  
23 ~~Ports-to-Plains Advisory Committee established in accordance~~  
24 ~~with that Act is abolished on August 31, 2021.]~~

## SUBCHAPTER F. ADVISORY COMMITTEES

## §1.90. Advisory Committees for Ports-to-Plains Corridor.

(a) Purpose. This section provides the information required by Government Code, Chapter 2110, for the Ports-to-Plains Advisory Committee (advisory committee) and segment committees for geographic segments along the Ports-to-Plains Corridor, established in accordance with H.B. No. 1079, 86th Legislature, Regular Session, 2019.

## (b) The Ports-to-Plains Advisory Committee.

(1) Purpose and duties. The purpose of the Ports-to-Plains Advisory Committee is to assist the department in conducting the study of the Ports-to-Plains Corridor required by H.B. No. 1079. The advisory committee has the duties and responsibilities set forth in that Act.

(2) Manner of reporting. The advisory committee shall review and compile the reports submitted by each segment committee and submit the compiled reports to the department with a summary and recommendations based on those reports, in accordance with H.B. No. 1079.

(c) Segment Committees. The department will determine geographic segments along the Ports-to-Plains Corridor. The department, in conjunction with the advisory committee, will take applications for service on a segment committee and will establish a segment committee for each geographic segment.

(1) Purpose and duties. The purpose of a segment committee is to assist the department and the advisory committee

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1 in accordance with H.B. No. 1079. A segment committee has the  
2 duties and responsibilities set forth in that Act.

3 (2) Manner of reporting. Each segment committee shall  
4 prepare and file a report with the Ports-to-Plains Advisory  
5 Committee in accordance with H.B. No. 1079.

6 (d) Exemption from corridor advisory committee rules.  
7 Section 1.86 of this subchapter (relating to Corridor Advisory  
8 Committees) does not apply to the Ports-to-Plains Advisory  
9 Committee.

10 (e) Exemption from corridor segment advisory committee  
11 rules. Section 1.87 of this subchapter (relating to Corridor  
12 Segment Advisory Committees) does not apply to a segment  
13 committee established under H.B. No. 1079.

14